

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING / GENERAL MEETING
NOVEMBER 12, 2013**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Cameron, Cunningham, DiDonna, Voigt, Olvany, Sini, Jr.

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat, Channel 79

Vice Chairman Cameron read the following agenda item:

GENERAL MEETING

Election of Officers (Chairman, Vice-Chairman, and Secretary)

Ms. Cameron asked if there were any nominations for Chairman. Mr. Voigt nominated Susan Cameron to serve as Chairman. Mr. Cunningham seconded the nomination. Ms. Cameron had been nominated so Mr. Voigt temporarily chaired the meeting. Ms. Cameron then reviewed her desire for the position, and her experiences and qualifications. Mr. Voigt then asked if there were any additional nominations for Chairman. Mr. Olvany nominated Mr. DiDonna to serve as Chairman. Mr. DiDonna reviewed his experiences and qualifications to serve as Chairman. He said that he is retired and has time to devote to the position. There was no second to the nomination. Mr. Voigt then called for a vote. In favor of Ms. Cameron serving as Chair were: Sini, Cameron, Cunningham and Voigt. Ms. Cameron was therefore voted to become Chairman.

Chairman Cameron asked for nominations for Vice-Chair. Mr. Voigt nominated Mr. DiDonna to serve as Vice-Chair. Mr. DiDonna then nominated Mr. Olvany to serve as Vice-Chairman. That nomination was seconded by Mr. Sini. Voting in favor were Mr. Cunningham, DiDonna, Sini, Olvany and Mrs. Cameron. Mr. Olvany was therefore elected to serve as Vice-Chairman.

Ms. Cameron opened the floor to nominations for Secretary. Ms. Cameron nominated Mr. Voigt to serve as Secretary. Mr. Olvany seconded the motion. Mr. Voigt was then unanimously elected to serve as Secretary.

Thus, for 2013/2014, Susan Cameron will be the Chairman, Stephen Olvany will be the Vice-Chairman, and Eric Voigt will be the Secretary.

The following agenda item was read:

Adoption of 2014 meeting schedule for Planning & Zoning Commission & Aquifer Protection Agency.

Mr. Ginsberg noted that the schedules have been drafted to avoid school vacations where possible. The following motion was made: That the Planning & Zoning Commission adopt the draft schedules

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for the Planning & Zoning Commission and Aquifer Protection Agency. The motion was made by Mr. Voigt, seconded by Mr. Olvany and unanimously approved.

Chairman Cameron read the following agenda item:

Modification of Flood Damage Prevention Application #320, Tim & Megan Malay, 20 Plymouth Road.

Request to modify previously approved plans for the driveway/Plymouth Road pull-off and terrace.

Commission members discussed the requested modification with respect to the driveway locations and orientations. It was noted that the Noroton Bay Association had reviewed and approved this revised design. Architect Chad Nehring explained that the Malay's would be eliminating the pull off near the front door and reducing the terrace at the rear of the house. They will be creating a small back up area in the driveway near the garage. Overall there is a 145 square foot reduction in the amount of paving and impervious surfaces. The following motion was made: That the Planning & Zoning Commission approve the requested modifications in accordance with the submitted plans. The motion was made by Mr. Cunningham, seconded by Mr. Sini and unanimously approved.

Chairman Cameron read the following agenda item:

Modification of Flood Damage Prevention Application #330, Mitrano, 29 Waverly Road.

Request to modify plans to not construct previously-approved addition, and to waive stormwater mgmt.

Chad Nehring explained that they are requesting a waiver for the installation of the drainage system that had been part of the original approval. Originally, the plans called for a 195 square foot addition to the house but that aspect of the project is no longer being implemented. The underground Cultec drainage system was part of the approved plan but he said that it is no longer justified because the addition is not being constructed. In response to a question, Mr. Nehring said that the applicants are not opposed to the concept of a rain garden but noted that it will take up space on an already small lot. He said that the Cultec units would have been in the back yard and would have accommodated the driveway, the house and the addition. He said that part of the plan includes converting the driveway from asphalt to gravel to reduce the amount of runoff from the site. Mr. Nehring said that the project has been cut back because the work to comply with the FEMA Flood Damage Prevention requirements has been more expensive than expected. The following motion was made: That the Planning & Zoning Commission approve the requested modification to the drainage system with the understand that the driveway will be converted to gravel and will not be an impervious surface. The motion was made by Mr. Voigt, seconded by Mr. DiDonna and unanimously approved.

Chairman Cameron read the following agenda item:

Coastal Site Plan Review #252-A, Land Filling & Regrading Application #278, Hans Mende, 253 Long Neck Point Road.

Request for extension of time.

Mr. Ginsberg explained that the work has started on the project but it will not be completed by the one year deadline that was part of the original approval granted by the Commission. After a brief

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discussion, the following motion was made: That the Planning & Zoning Commission grant an extension so that the project must now be completed by November 12, 2014. The motion was made by Mr. Voigt, seconded by Mr. Olvany and unanimously approved.

Chairman Cameron read the following agenda item:

Subdivision Application #131-A, Coastal Site Plan Review #288, Flood Damage Prevention Application #329, Land Filling & Regrading Application #308, 25 Brush Island Road, LLC/Caulfield, 25 Brush Island Road.
Request for extension of time to implement approved plan.

Commission members discussed the fact that this project had involved the removal of a tennis court and a part of a deck from the existing house in order to create the new property line to subdivide the property. The following motion was made: That the Planning & Zoning Commission authorize the extension to implement the project and finalize the subdivision map and file that on the Land Records to as late as November 12, 2014. The motion was made by Mr. Olvany, seconded by Mr. Voigt and unanimously approved.

The following motion was made: That the Planning & Zoning Commission waive the process of reading the draft resolutions aloud because each member has had an opportunity to review the drafts prior to the meeting. The motion was made by Mr. DiDonna, seconded by Mr. Cunningham and unanimously approved.

Chairman Cameron read the following agenda item:

Discussion, deliberation and possible decision on the following:
Flood Damage Prevention Application #254-A/Amendment of Site Plan, Darien Parks & Recreation, Darien Junior Sailing Team, Weed Beach, 155 Nearwater Lane. Proposal to construct a 22' x 50' storage building to replace the sheds and sailing house damaged by Storm Sandy; relocate boat storage racks, chase boats, trailers, and portable launch ramps; and perform related site activities within a regulated area.

The draft resolution was discussed. It was noted that if the Town proposes to lease the land to a private organization to operate the sailing program, that process will require a Mandatory Referral to be submitted to the Commission. Several Commission members said it would not be appropriate to have a privately owned building on public land. Ms. Cameron noted that Item 5 needs to be clarified to make a finding that the submitted survey map is acceptable for the process of approving the project. Commission members agreed. The following motion was made: The Planning & Zoning Commission adopt the following, revised resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. DiDonna and seconded by Mr. Voigt. All voted in favor except Mr. Cunningham and Mr. Sini who both abstained. The motion was passed by a vote of 4-0-2. The Adopted Resolution reads as follows:

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Application Number: Flood Damage Prevention Application #254-A/
Amendment of Site Plan

Street Address: 155 Nearwater Lane
Assessor's Map #56 Lots #3 & #4

Name and Address of Applicant &: Town of Darien
Property Owner: Parks & Recreation Dept.
2 Renshaw Road
Darien, CT 06820

Name and Address of: Susan Swiatek
Applicant's Representative: Parks & Recreation Director
2 Renshaw Road
Darien, CT 06820

Activity Being Applied For: Proposal to construct a 22' x 50' storage building to replace the sheds and sailing house damaged by Storm Sandy; relocate boat storage racks, chase boats, trailers, and portable launch ramps; and perform related site activities within a regulated area.

Property Location: The subject property is located on the west side of Nearwater Lane approximately 200 feet south of its intersection with Short Lane.

Zone: R-1

Date of Public Hearing: October 22, 2013

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices
Dates: October 11 & 18, 2013 Newspaper: Darien News

Date of Action: November 12, 2013 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action: Newspaper: Darien News
November 22, 2013

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 406, 820, and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

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- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The application is to construct a 22' x 50' storage building to replace the sheds and sailing house damaged by Storm Sandy; relocate boat storage racks, chase boats, trailers, and portable launch ramps; and perform related site activities within a regulated area. The subject property is directly adjacent to Long Island Sound. The work is more than 100 feet from Mean High Water. All construction access will be from an existing paved area. No trees will be cut as part of this application.
2. As described, the proposed structure will have two floors. It will be used to house the Junior Sailing program, which has 125-150 youth each summer. No change in that activity is proposed as part of this application. While the main purpose of the proposed building is storage of boats and related materials, there may be occasions where training or related office activity for the Junior Sailing Program may occur within the building, although such use would not be common.
3. The Architectural Review Board reviewed and approved the plans for the building on October 15, 2013 as part of ARB #30-2013. That approval is hereby incorporated by reference.
4. The proposed building is to replace the prior building, which was damaged as part of storm Sandy in October 2012. The building will be farther from the water and at a slightly higher elevation than that prior building damaged in the storm. While that old building has been removed, and remediation of that area is ongoing as of the date of the public hearing on this matter, the future use of that area where the prior building stood is undetermined. Any use of that area requiring a building may require review and action of this Commission.
5. As part of the application materials, an August 2009 survey of the entire Weed Beach property was submitted. At the public hearing, a comment was received from a member of the public on whether the submittal of more recent survey would be appropriate, since the location of the proposed building is close to the property line. The Commission finds that the 2009 survey is acceptable without updating.
6. The proposed structure is to be placed over an existing paved area—thus, there is no new impervious surface as part of this application.
7. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.

NOW THEREFORE BE IT RESOLVED that Flood Damage Prevention Application #254-A/Amendment of Site Plan are hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

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- A. Construction and other site activity shall be in accordance with the following plans submitted and reviewed by the Commission:
- Darien Junior Sailing Shed, Site Plan, by Richard Swann Architect, dated Oct. 15, 2013, scale 1"=10', Dwg. No: L1.
 - Darien Junior Sailing Shed, Shed, by Richard Swann Architect, dated Oct. 15, 2013, scale 1/4"=1'0", Dwg. No: A1.
 - Darien Junior Sailing Shed, Shed, by Richard Swann Architect, dated Oct. 15, 2013, scale 1/4"=1'0", Dwg. No: A2.
- B. Due to the nature and location of this project, the Commission hereby waives the requirement for a performance bond.
- C. Because of this property's location directly adjacent to Long Island Sound, and the fact that no new impervious surface is proposed as part of this application, the Commission hereby waives the requirement for a more detailed stormwater management analysis.
- D. Accompanying the Zoning and Building Permit applications and prior to commencing construction, a certification shall be submitted from a licensed architect and/or engineer that verifies that the final design of the proposed new structure complies with the applicable flood damage prevention requirements.
- E. During the regrading and site work, the applicant shall utilize the sediment and erosion control as may be necessary due to site conditions. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the filling and regrading and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans, and as needed by site conditions. All erosion control measures must be maintained until the disturbed areas are stabilized.
- F. Because the proposed work is near a property line, the Commission is requiring a final as-built survey, showing the structure in relation to nearby property lines. That shall be submitted prior to the issuance of a Certificate of Zoning Compliance.
- G. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- H. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This may include a Mandatory Referral report from this Commission if the Board of Selectmen decides to proceed with a formal lease of property for the Junior Sailing Program.
- I. At the public hearing, the applicant's representative noted that an October 10, 2013 memo was submitted requesting that the permit be issued for three years, due to the seasonal construction

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constraints on the site, as well as the need to obtain all necessary Town government approvals and funding. The Commission agrees with said request, and thus, this permit shall be subject to the provisions of Section 825 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within three (3) years of this action (November 12, 2016).

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman.

Chairman Cameron read the following agenda item:

Special Permit Application #117-E/Site Plan, Land Filling & Regrading Application #314, Noroton Presbyterian Church, 2011 Boston Post Road and 2075 Boston Post Road and 25 Noroton Avenue. Proposal to construct additions and alterations to the existing Church, including modifying the existing parking area and playground; and to perform related site development activities.

In the discussion, the Commission made several corrections and clarifications. It was noted that the driveways will be relocated within the site but the curb cuts in the streets were not being relocated. Any work within the State right of way along Route 1 or within the Noroton Avenue right of way would be subject to permits from the Department of Public Works. The Commission discussed the possibility of requiring a performance bond due to the work in and adjacent to the stormwater detention basin. If that work is not done in a timely manner or is not done in an acceptable manner, it could negatively impact the neighboring properties. It was decided to table this matter for a week so that Mr. Ginsberg can work on the requirements for a performance bond.

Chairman Cameron read the following agenda item:

Proposed Amendments to the Zoning Regulations (COZR #4-2013) put forth by the Tokeneke Club, Inc. Proposal to modify the definition of Building Coverage in Section 210 of the Darien Zoning Regulations. This change would include only the first and largest court of any pervious tennis or recreational court in the calculation of "Building Coverage" for lots in commercial zones or special permit uses on lots in residential zones.

Mr. DiDonna departed from the meeting so that he would not participate in any discussion or action regarding this matter in order to avoid any perception of a conflict of interest.

The draft resolution was discussed and several typographical errors and clarifications were agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the requested amendment of the Zoning Regulations in accordance with the specifications of the resolution. The motion was made by Mr. Olvany and seconded by Mr. Cunningham. The motion was passed by a vote of 4-0-1 (Mr. Sini abstained and Mr. DiDonna was absent). The Adopted Resolution reads as follows:

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Application Number: Proposed Amendments to Zoning Regulations (COZR #4-2013)

Application Put Forth by: Tokeneke Club, Inc.

Name and Address of: Tokeneke Club, Inc.
Property Owner: 4 Tokeneke Beach Drive
Darien, CT 06820

Name and Address of Applicant &: Wilder G. Gleason, Esq.
Applicant's Representative: Gleason & Associates, LLC
455 Boston Post Road, Suite 201
Darien, CT 06820

Activity Being Applied For: Proposal to modify the definition of Building Coverage in Section 210 of the Darien Zoning Regulations. This change would include only the first and largest court of any pervious tennis or recreational court in the calculation of "Building Coverage" for lots in commercial zones or special permit uses on lots in residential zones.

Property is located at: This regulation amendment would apply to all properties within the Town of Darien.

Date of Public Hearings: July 30, 2013 continued to September 10, 2013
Deliberations held: October 15, 2013

Time and Place of Public Hearings: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices
Dates: July 19 & 26, 2013 Newspaper: Darien News

Date of Action: November 12, 2013

Action: **ADOPTED WITH MODIFICATIONS**
THIS REGULATION AMENDMENT WILL TAKE EFFECT ON
SUNDAY, DECEMBER 29, 2013 AT TWELVE NOON.

Scheduled Date of Publication of Action:
November 22, 2013 Newspaper: Darien News

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject proposal put forth by the Tokeneke Club is to modify the definition of Building Coverage in Section 210 of the Darien Zoning Regulations. This change would include only the

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first and largest court of any pervious tennis or recreational court in the calculation of “Building Coverage” for lots in commercial zones or special permit uses on lots in residential zones. Currently, all tennis courts on a property count towards Building Coverage. This proposal would not affect residential uses of property in residential zones.

2. The existing definition of Building Coverage reads as follows:
Building Coverage: The combined percentage of the land covered by the roof area or outside dimensions of all structures on the lot including eaves and other similar projections. Coverage shall include dwellings; garages; storage/accessory buildings; commercial buildings; porches; decks; covered courtyards and walkways; pools; tennis and other recreational courts; and other structures that are located on or above the ground. Driveways, uncovered walks, patios, terraces and other at grade surfaces shall not be included in building coverage, but shall be included in the calculation of developed site area. (See Subsection 223 for illustration.)
3. Another application is now pending which was put forth by the Planning and Zoning Commission to amend to the Zoning Regulations. That application includes proposed amendments to a number of regulations, including a proposed change to the definition of Building Coverage. Both this application and the one put forth by the Commission will be decided separately, and may result in changes to the definition of Building Coverage.
4. As explained at the public hearing, the Tokeneke Beach Club was constructed in the early 1900s, prior to the establishment of Zoning Regulations in Darien. It contains approximately nine tennis courts as well as other facilities on their five acre property. The other private clubs in Town have much larger acreages and therefore building coverage is not a concern to those clubs.
5. In 1985, the Darien Zoning Regulations were modified to include tennis courts in the definition of building coverage. At that time, many of the Regulations were amended so that many things that were not included in building area were then counted as Building Coverage. The 1985 Regulation does not include all impervious surfaces, but does include such items as tennis courts and swimming pools. It does not include driveways or patios.
6. At the public hearing, the applicant said that the Tokeneke Beach Club wants to be treated like the other Clubs in Town that have much larger tracts of land, the only exception to that would be the Noroton Yacht Club that has several tennis courts and is similarly situated on a small acreage site. Due to the fact that the Tokeneke Beach Club is now over 20% maximum allowed Building Coverage, proposed modifications to the site need to go before the Zoning Board of Appeals. If the proposed change in the definition is incorporated, the Building Coverage would go down to 17% +/- which is less than the 20% allowed in the residential zones.
7. The applicant provided comparisons of Building Coverage with other nearby communities relative to building area or building coverage. It notes that only Darien counts tennis courts towards building coverage in all instances. The 2006 Town Plan of Conservation & Development recommends that the Planning & Zoning Commission regulate site development of all impervious surfaces, not just building coverage.
8. At the public hearing, one of the neighbors made the allegation that this definition change would be spot zoning. The applicant responded that this is not spot zoning--they are just proposing to change

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the definition of “Building Coverage” regarding unusual site conditions such as the Tokeneke Beach Club. The Commission agrees that while this definition change would have an effect on very few properties in Town at the current time, it does apply to many properties throughout Darien.

9. It was represented that the total Building Coverage of the Tokeneke Beach Club property is 37.8% of the land area; 14.5% of that is actually building and structures and 23.3% of that is the tennis courts. The existing tennis courts were in existence prior to 1985 when the Regulations were changed to include tennis and other courts in the building coverage calculations. Using the proposed new definition, the building coverage would be 17.2% of the lot area.
10. At the public hearing, Zoning Enforcement Officer David Keating said that in 1985 when the Regulations were being updated, there was an effort to clarify the definition of building coverage to make sure that things were either clearly counted or clearly not counted as Building Coverage. Since tennis courts, paddle tennis courts and swimming pools all must comply with setback requirements and all require permits and had substance, mass, or volume, they were included in the definition of building coverage. Patios, terraces and driveways do not require permits and generally do not have anything located above ground, thus they were specifically excluded from the definition of Building Coverage.
11. The Darien Regulations allowing 20% Building Coverage in residential zones is more generous than other communities but those other communities do not include tennis courts in their calculations of Building Coverage. The attorney for the applicant said that Darien is the only town that does count a tennis court completely and requires a Special Permit for tennis courts in all cases. In some other communities in the area, they regulate the total impervious surfaces and do not allow more than 50% or so of the land area to be covered by impervious surfaces.
12. The applicant said that the Noroton Yacht Club and Tokeneke Beach Club are the most impacted properties in Town by the existing definition of Building Coverage because larger percentages of their land are covered by tennis courts. Other locations that have multiple tennis courts have large pieces of property. The Tokeneke Beach Club is a Special Permit use and under the jurisdiction of the Planning & Zoning Commission.
13. It was noted that in residential zones, the Town of Darien does not regulate the total impervious surfaces on a property, just Building Coverage. Creating a new Regulation about impervious surfaces would require a whole new public hearing.
14. Tennis courts are now an Accessory Use Requiring a Special Permit in residential zones as allowed by Section 405b of the Darien Zoning Regulations. This means that the Planning & Zoning Commission has a public hearing and a review of every new tennis court proposed within the Town of Darien. That would not change with this definition change. Private Clubs in Darien are also Special Permit uses, so changes to the Clubs also require review and action by the Planning & Zoning Commission.
15. At the public hearing, Planning and Zoning Director Jeremy Ginsberg explained that any regulation amendment must be consistent with the 2006 Town Plan of Conservation and Development. The following is a portion of the Town Plan related to this matter:

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Page 3-3: “The Planning and Zoning Commission should consider, review, or study: ...Amending the definition of Building Coverage to include all impervious surfaces, including all accessory buildings and impervious driveways, parking areas, walks, and terraces, or alternately create a maximum Developed Site Area within all residential zones.”

16. As required by Statute, this application was referred to the State of CT DEEP, and the Southwestern Regional Planning Agency (SWRPA). The State of CT DEEP noted in an email dated July 30, 2013, “No concerns with COZR #3-2013 and COZR #4-2013.” As noted in their July 2, 2013 email to Jeremy Ginsberg, at the SWRPA meeting held on July 1, 2013, the following staff comment was approved regarding this application, “The proposed zone change to modify the definition and calculation of Building Coverage to include only the first and largest court of any pervious tennis or recreational court is not likely to have any adverse inter-municipal impacts.”
17. The Commission hereby modifies the applicant’s proposal by deleting reference to the “first” court, since that could result in confusion between that and the “largest” court.
18. Section 8-3(d) of the Connecticut General Statutes requires that notice of this decision be published in a local paper, and a copy of the regulation change be filed with the Town Clerk prior to the zoning regulation amendments taking effect.

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NOW THEREFORE BE IT RESOLVED that ***Proposed Amendments of the Darien Zoning Regulations*** regarding modifications to subsection 210 (Definition of Building Coverage) is ADOPTED WITH MODIFICATIONS WITH AN EFFECTIVE DATE OF SUNDAY, DECEMBER 29, 2013 AT TWELVE NOON.

The proposed amendments to subsection 210 (Definition of Building Coverage) is ADOPTED WITH MODIFICATIONS. The Commission finds that this amendment, as modified, is consistent with the 2006 Town Plan of Conservation and Development as amended.

Building Coverage: The combined percentage of the land covered by the roof area or outside dimensions of all structures on the lot including eaves and other similar projections. Coverage shall include dwellings; garages; storage/accessory buildings; commercial buildings; porches; decks; covered courtyards and walkways; pools; tennis and other recreational courts; and other structures that are located on or above the ground. Driveways, uncovered walks, patios, terraces and other at grade surfaces shall not be included in building coverage, but shall be included in the calculation of developed site area. (See Subsection 223 for illustration.)

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(The inside cover page of the Zoning Regulations, the Table of Contents, and Appendix C-Schedule of Amendments also shall be modified accordingly)

The approved wording for this Section is as follows:
New wording in bold, deletions in strikeout:

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1) Modify subsection 210 Definitions

Building Coverage: The combined percentage of the land covered by the roof area or outside dimensions of all structures on the lot including eaves and other similar projections. Coverage shall include dwellings; garages; storage/accessory buildings; commercial buildings; porches; decks; covered courtyards and walkways; pools; tennis and other recreational courts; and other structures that are located on or above the ground. **For pervious tennis courts and other pervious recreational courts located on lots in a commercial zone or on a residential lot with a Special Permit use thereon, only the largest such court shall count in Building Coverage.** Driveways, uncovered walks, patios, terraces and other at grade surfaces shall not be included in building coverage, but shall be included in the calculation of developed site area. (See Subsection 223 for illustration.)

Mr. DiDonna returned to the meeting and Chairman Cameron read the following agenda item:

Coastal Site Plan Review #294, Land Filling & Regrading Application #316, John & Medina Vasily, 18 Long Neck Point Road. Proposing additions to the existing residence and converting a deck to a terrace, and perform related site development activities within a regulated area.

Commission members discussed the draft resolution. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Olvany and seconded by Mr. Voigt. All voted in favor except Mr. Sini and Mr. Cunningham who both abstained. The motion was passed by vote of 4-0-2. The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION**

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Application Number: Coastal Site Plan Review #294
Land Filling & Regrading Application #316

Street Address: 18 Long Neck Point Road
Assessor's Map #60 Lot #18-B

Name and Address of:
Property Owner: John & Medina Vasily
c/o 35 Shields Road
Darien, CT 06820

Name and Address of Applicant &:
Applicant's Representative: Wilder G. Gleason, Esq.
Gleason & Associates, LLC
455 Boston Post Road
Darien, CT 06820

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Activity Being Applied For: Proposing additions to the existing residence and converting a deck to a terrace, and perform related site development activities within a regulated area.

Property Location: The subject property is located on the west side of Long Neck Point Road at the northernmost intersection formed by Pear Tree Point Road and Long Neck Point Road.

Zone: R-1

Date of Public Hearing: October 22, 2013

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: October 11 & 18, 2013

Newspaper: Darien News

Date of Action: November 12, 2013

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
November 22, 2013

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The application is to construct additions to the existing residence and converting a deck to a terrace, and perform related site development activities within a regulated area. The subject property is 1.289+/- acres.
2. At the public hearing, the applicant explained the request for a cupola and associated finial. Revised plans dated October 21, 2013 were show. These plans show the specific dimensions of the proposed cupola, which the applicant explained would not be internally lit.
3. The subject property is across the street from Darien Harbor (which flows into Long Island Sound). A rain garden has been proposed to address stormwater management and water quality. The Commission notes the need for the applicant's engineer to prepare a Drainage Maintenance Plan,

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and file a Notice of Drainage Maintenance Plan in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.

4. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Sections 850 and 1000.
5. The Commission finds that the proposed activities with respect to the proposed addition to the residence, if properly implemented, are not contrary to the goals, objectives and policies of the Coastal Area Management Program.
6. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
7. The design, location, and specific details of the proposed work and site development will not adversely affect safety nor increase traffic congestion in the streets, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.
8. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #294 and Land Filling & Regrading Application #316 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction, filling and regrading, and other site development activity shall be in accordance with the following plans submitted and reviewed by the Commission:
 - Zoning Location & Topographic Survey prepared for John H. Vasily Medina Vasily 18 Long Neck Point Road, by William W. Seymour & Associates, revised October 7, 2013.
 - Site Drainage Plan 18 Long Neck Point Road, by McChord Engineering Associates, Inc., dated 9-12-13, Drawing SE-1.
 - 18 Long Neck Point, by Wadia Associates, last revised September 3, 2013, Drawings No. A001, A002, A101, A200, A201.
 - 18 Long Neck Point, by Wadia Associates, last revised October 21, 2013, Drawings No. A202.1, A200.1. (showing the proposed cupola).
- B. Due to the nature and location of this project, the Commission hereby waives the requirement for a performance bond.
- C. Because of this property's location across the street from Darien Harbor, the Commission hereby waives the requirement for a more detailed stormwater management analysis. The Commission is hereby requiring the installation of a rain garden as shown on the plans submitted at the October 22, 2013 public hearing.

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- D. The Commission hereby approves the requested cupola as shown on Sheets A202.1 and A200.1. The cupola shall not be internally lit.
- E. During the regrading and site work, the applicant shall utilize the sediment and erosion control measures shown on the plans in Condition A, above, and other measures as may be necessary due to site conditions, including tree protection. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the filling and regrading and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans, and as needed by site conditions. All erosion control measures must be maintained until the disturbed areas are stabilized.
- F. By January 12, 2014 (within the next 60 days), a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 18 Long Neck Point Road to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A "Notice of Drainage Maintenance Plan" shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the issuance of a Zoning and Building Permit for the proposed new house.
- G. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Prior to the request for the Certificate of Occupancy for the residence, the applicant shall submit verification from a professional engineer in writing and/or photographs that all aspects of the site regrading and stormwater management have been completed in compliance with the approved plans referred to in Condition A, above.
- H. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- I. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- J. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (November 12, 2014).

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records

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within 60 days of this action and prior to the issuance of a Zoning or Building Permit, or this approval shall become null and void.

Chairman Cameron read the following agenda item:

Coastal Site Plan Review #290, Flood Damage Prevention Application #333, Land Filling & Regrading Application #310, ASL Partners, LLC, 203 Long Neck Point Road. Proposal to demolish the existing single-family residence and construct a new single-family residence with pool, and perform related site activities within regulated areas.

Commission members discussed the draft resolution and made several modifications and clarifications. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Olvany, seconded by Mr. DiDonna. All voted in favor except Mr. Sini, who had not been present for the public hearing regarding the matter. The motion passed by a vote of 5-0-1. The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
November 12, 2013**

Application Number: Coastal Site Plan Review #290
Flood Damage Prevention Application #333
Land Filling & Regrading Application #310

Street Address: 203 Long Neck Point Road
Assessor's Map #61 Lot #9

Name and Address of Applicant: ASL Partners, LLC
and Property Owner: 106 Main Street
New Canaan, CT 06840

Name and Address of: Robert F. Maslan, Jr., Esq.
Applicant's Representative: Maslan Associates, PC
30 Old King's Highway South
Darien, CT 06820

Activity Being Applied For: Proposal to demolish the existing single-family residence and construct a new single-family residence with pool, and perform related site activities within regulated areas.

Property Location: The subject property is located on the east side of Long Neck Point Road approximately 1,200 feet south of its southernmost intersection with Pear Tree Point Road.

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Zone: R-1

Date of Public Hearing: July 30, 2013 continued to September 17, 2013 and October 15, 2013

Time and Place: 8:00 P.M. Room 206 and 119 Town Hall

Publication of Hearing Notices

Dates: July 19 & 26, 2013

Newspaper: Darien News

Date of Action: November 12, 2013

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
November 22, 2013

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The application is to construct a new single-family residence, and perform related site development activities within a regulated area. The new residence will be served by public water and sewer. The subject property is 4.8+/- acres in size, and is directly adjacent to Long Island Sound. This property was the subject of a subdivision approval (Subdivision Application #612 approved in February 2012) to create three lots on this property. This application would be to keep the property as one oversized lot, and not implement the previously approved subdivision. All utilities for this proposed residence (as shown on Drawing SE-1) will be underground.
2. While the Commission acknowledges that the proposed residence and associated pool and formal terrace areas are substantial, the previously approved three lot subdivision approved in 2012 would have likely resulted in the same, if not more, development on the 4.8+/- acre site.
3. As shown on the submitted plans, the applicant proposed to construct stone walls along the front and most of the side property lines. All fences and walls shall comply fully with Section 362 of the Darien Zoning Regulations. This includes the requirement that no wall or fence within the front yard shall exceed four feet in height.

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4. The amount of work proposed within the flood zone as part of this application is limited. Portions of the subject property are in Zone VE15 and AE14 as shown on the Flood Insurance Rate Map (FIRM) that went into effect on July 8, 2013. There is no activity proposed within the flood zone. The proposed new wall ends at the flood zone line.
5. The entire property is within 1,000 feet of Mean High Water. The proposed pool is 230+/- feet from Long Island Sound at its closest point, and the proposed pool house below the upper terrace associated with the residence is 307+/- feet from Mean High Water at its closest point. No work associated with this application is within 100 feet of Mean High Water
6. There is a rain garden proposed along the south property line to collect the water from the proposed parking areas. The retention area proposed is about 3,000 cubic feet and is designed to address stormwater management and water quality. The Commission notes the need for the applicant's engineer to prepare a Drainage Maintenance Plan, and file a Notice of Drainage Maintenance Plan in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.
7. Much of the concern at the public hearing was regarding the formal lawn terraces and associated retaining walls near the property lines. Other issues were the large length of the proposed terraces; the existing shorefront access easement along the north property line; and proposed stone walls to be constructed on the subject property—including their mass and height; and proposed tree removal.
8. During the public hearing process, the proposed wall along the north property line was reduced by 2½ feet. The applicant has proposed a lower the wall along the property line. The property line wall is now four feet high. The wall was originally 8½ feet high at the corner, and it is now six feet high from the grade.
9. As noted at the public hearing, and as shown on the submitted plans, the property owner will be removing a significant number of trees on the property, and replacing them with new plantings throughout the property. The proposed plantings are shown on Plan L3.00, and include a mix of large trees, and ornamental shrubs and plantings. All proposed plantings are more than 100 feet from Mean High Water. An arborists report was submitted for the record regarding the existing trees on the property.
10. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Sections 850 and 1000.
11. The Commission finds that the proposed activities with respect to the proposed addition to the residence, if properly implemented, are not contrary to the goals, objectives and policies of the Coastal Area Management Program.
12. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.

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13. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #290, Flood Damage Prevention Application #333 and Land Filling & Regrading Application #310 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction, filling and regrading, and other site development activity shall be in accordance with the following plans submitted and reviewed by the Commission:
- Zoning Location Survey depicting Proposed Conditions 203 Long Neck Point Road prepared for ASL Partners, LLC, by William W. Seymour & Associates, June 6, 2013 and last revised June 18, 2013.
 - Site Development Plan 203 Long Neck Point Road, by McChord Engineering Associates, Inc., dated June 13, 2013 and last revised 10-11-13, Drawing No. SE1.
 - Construction Notes and Details 203 Long Neck Point Road, by McChord Engineering Associates, Inc., dated October 11, 2013 and last revised 10-11-13, Drawing No. DT1.
 - CAM Submission by Gregory Lombardi Design Inc., last revised 2013/09/17, Sheets L1.00, L2.00, and L3.00.
- B. The submitted Schematic Planting Plan (Sheet L3.00) shows a variety of plantings and shrub beds to the east of the proposed lawn terrace walls. These plantings will assist in minimizing the visual height of the walls. The Commission recommends that the applicant consider some tree planting to the east of the walls to help not only help minimize the visual impact of the walls, but also the proposed residence, which is 240+ feet long, and has a first floor elevation of 42.5. These walls range in height from two to five feet. The applicant has noted that the eastern part of the property will be made into manicured lawn. This area is now already lawn.
- C. Due to the nature and location of this project, the Commission hereby waives the requirement for a performance bond.
- D. As offered by the applicant at the public hearing, the gate shall be widened by two feet to a total of six feet.
- E. Because of this property's location directly adjacent to Long Island Sound, the Commission hereby waives the requirement for a more detailed stormwater management analysis. The Commission is hereby requiring the installation of a rain garden and other stormwater management as shown on the plans submitted and described at the public hearing, and shown on the plans listed in Condition A, above. It is imperative that grading near the south property line be carefully implemented, so as not to direct water to the property to the south, but rather to the east, towards Long Island Sound.
- F. During the regrading and site work, the applicant shall utilize the sediment and erosion control measures shown on the plans in Condition A, above, and other measures as may be necessary due to site conditions, including tree protection. This includes an anti-tracking pad on the two proposed construction entrances, and a silt fence backed with staked haybales on the east side of the property. Those sediment and erosion controls shall be installed to minimize any adverse

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impacts during the filling and regrading and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans, and as needed by site conditions. All erosion control measures must be maintained until the disturbed areas are stabilized.

- G. By December 15, 2013 (within the next 60 days), a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 203 Long Neck Point Road to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A "Notice of Drainage Maintenance Plan" shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the issuance of a Zoning and Building Permit for the proposed new house.
- H. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Prior to the request for the Certificate of Occupancy for the residence, the applicant shall submit verification from a professional engineer in writing and/or photographs that all aspects of both the site regrading and stormwater management have been completed in compliance with the approved plans referred to in Condition A, above. An as-built survey with one-foot contours is hereby required prior to the request or issuance of a Certificate of Occupancy to certify compliance with building setbacks, building height, and to assure that the final grades match those proposed within the approved plans.
- I. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- J. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to, approval from the Public Works Department for a Street Opening Permit for the new driveways on Long Neck Point Road.
- K. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within two (2) years of this action (November 12, 2015). Due to the size of the proposed residence and associated filling and regrading work, the Commission is granting the applicant two years to complete this project.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records

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within 60 days of this action and prior to the issuance of a Zoning or Building Permit, or this approval shall become null and void.

At about 8:50 p.m., Chairman Cameron then read the following agenda item:

PUBLIC HEARING

Special Permit Application #122-B, Darien Housing Authority, 24 Allen O'Neill Drive. Proposal to locate the Darien Housing Authority office within the existing community building at The Heights at Darien. The subject property is located on the east side of Noroton Avenue, approximately 550 feet north of its intersection with West Avenue, and is shown on Assessor's Map #21 as Lot #103 in the DMR Zone.

Arthur Anderson and Jan Raymond represented the Darien Housing Authority. The plan is to formally move the offices of the Darien Housing Authority from the Darien Town Hall at 2 Renshaw Road to the offices at Allen O'Neill / The Heights at Darien site. To have the offices of a non-profit service organization in a residential zone requires a Special Permit approval from the Planning & Zoning Commission. They explained that the Site Superintendent that works for the Housing Authority has other work space on the property and the Property Manager and the Residential Services Coordinator spend much of their work time at the site already. They estimate that 80% of their time is spent at, or working on, Allen O'Neill / The Heights at Darien related items. 20% of their work time is spent regarding the Old Town Hall housing site managed by the Housing Authority. They explained that the Housing Authority has two employees, the Superintendent and the Residential Services Coordinator. Both of them already spend considerable time at the Allen O'Neill / Heights at Darien housing development, and therefore there would be no change to the parking demand if the Housing Authority offices are located on Allen O'Neill Drive. The Housing Authority has one scheduled monthly meeting at which the five Commission members and approximately five other people attend. Once or twice a year they will have larger crowds and therefore will not be able to meet in the space on Allen O'Neill Drive. On those occasions, they will need to arrange for a different venue. The existing Community Room at the Allen O'Neill / The Heights at Darien housing project can accommodate 20-25 people.

Jan Raymond, Chairman of the Darien Housing Authority (DHA), said that the offices of the DHA have been in the Town Hall for many years but this is inefficient in that all of the tenants are located at the two project sites. She said that the relocation of some filing cabinets and the official office location of the DHA to Allen O'Neill Drive will not change the phone number or the email address of the DHA.

There were no comments from the public on the application. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Cunningham, seconded by Mr. Olvany and unanimously approved.

Chairman Cameron read the following agenda item:

Business Site Plan #24-V/Special Permit, Beth duPont/Good Food Good Things, 25 Old King's Highway North, Goodwives Shopping Center. Proposal to install a convenience food

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service use and an associated retail use within a 2,900+/- square foot space at Goodwives Shopping Center between Flair Fitness and Wineport of Darien. The space is located within Goodwives Shopping Center, which is located on the south side of Old Kings Highway North, approximately 150 feet southwest of its intersection with Brookside Road and is shown on Assessor's Map #71 as Lot #19, in the DC Zone.

Elizabeth duPont said that she wants to relocate the Good Food Good Things store from the Boston Post Road to the Goodwives Shopping Center. The major business is the retail component but there would be eight chairs or stools for customers to sit and enjoy some food or beverage. The food or beverage at the location would be brought into the site rather than being prepared on site. Health Department approval is necessary for this type of operation. Hours of operation were discussed. It was noted that the store will be located next to the Wine Port within Goodwives Shopping Center. In response to a question, Ms. duPont said that the Goodwives Shopping Center will not allow SoNo Bakery to provide the food to the site due to contractual obligations. She said that they will be using a new, healthier food line than they currently have, but it will include muffins and pastries. It was noted that eight seats is the maximum allowed by the Regulations.

There were no comments from the public regarding the application. The following motion was made: That the Planning & Zoning Commission close the public hearing. The motion was made by Mr. Cunningham, seconded by Mr. Olvany, and unanimously approved.

Chairman Cameron read the following agenda item:

Coastal Site Plan Review #295, Flood Damage Prevention Application #335, Daniel Smith, 149 Long Neck Point Road. Proposing to construct a replacement pier, ramp, and dock and perform related site development activities within regulated areas. The subject property is located on the east side of Long Neck Point Road approximately 100 feet north of its southernmost intersection formed by Pear Tree Point Road and Long Neck Point Road, and is shown on Assessor's Map #59 as Lot #9 in the R-1 Zone.

John Hilts represented the property owner and explained that the owner has engaged a contractor, who was already working on a dock facility on an adjacent property at 141 Long Neck Point Road. While doing the repair to the float and pier that extend within the state jurisdiction, the contractor also did the work that is within the Town's jurisdiction. The contractor had assumed that all permits were obtained when, in fact, the only permits that had been obtained were from the Connecticut Department of Energy & Environmental Protection and the US Army Corps of Engineers. The permit from the Town had not been obtained.

Mr. Hilts explained that the remaining work that needs to be done would be removal of some of the vegetation within the tidal zone and the installation of salt tolerant plants. Mr. Hilts said that the project engineers had recommended the replacement of the sea wall but such work would need new permits that go far beyond the repair to the existing pier and dock. The sea wall would impact the waves and might impact the tidal wetlands. In response to questions, Mr. Hilts said that the existing bushes that need to be removed will be replaced immediately with salt tolerant vegetation and within three years will have 80% or more growth than what is there at this time. He said that that the phragmites, which is an invasive species, must be kept out of the area.

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Mr. Hilts said that most of the pier and ramp and float work that had been performed is not within the Town's jurisdiction. Only the steps and small portion on the pier are within the Town's jurisdiction but this work has already been performed by the contractor.

Mr. Ginsberg noted that the Building Department does not normally require a Building Permit for this type of work. Commission members discussed the requirement for a bond to assure that the replanting of vegetation will be done in an appropriate manner and that the plants survive and any that do not survive will be replaced.

Mr. Hilts said that the pier head that was somewhat damaged had been labeled on the plans as being 8' x 10' when it was actually 9' x 10'. In response to a question, Mr. Hilts said that usually the DEEP requires one foot of clearance of vegetation for every one foot of width of the pier structure. That way the clear space underneath the pier will get some sunlight.

Mr. Voigt said that the Commission is not in the habit of approving projects that have already taken place. He said that the Commission will discuss whether to require the applicant to remove the work within the Town's jurisdiction.

There were no members of the public present to comment on the application. After further discussion, the following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Voigt, seconded by Mr. Olvany and unanimously approved.

Chairman Cameron read the following agenda item:

Approval of Minutes

October 15, 2013 Public Hearing/General Meeting

Several corrections and clarifications were agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the corrected minutes. The motion was made by Mr. Voigt and seconded by Mr. Olvany. All voted in favor except Mr. Sini, who had not been a Commission member at that time.

October 29, 2013 Public Hearing/General Meeting

Several corrections and clarifications were discussed and agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the correct minutes. The motion was made by Mr. DiDonna and seconded by Mr. Voigt. All voted in favor except Mr. Sini and Mr. Cunningham, who had not attended the meeting.

Any Other Business (Requires two-thirds vote of Commission)

The following motion was made: That the Planning & Zoning Commission go into "Other Business" to discuss and possibly act upon the application of Beth duPont for the business at 25 Old Kings Highway North. The motion was made by Mr. Cunningham, seconded by Mr. Voigt and unanimously approved.

Mr. Ginsberg noted that none of the cooking would be done on-site, and that this matter was placed on this P&Z meeting agenda in order to facilitate a quick response by the Commission. He said that the Farmer's Market that has been conducted within Goodwives Shopping Center has been well received

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by the public and the owners of the facility. Commission members agreed that it would be appropriate to approve the application, and that the use would be in compliance with the Special Permit findings in Section 1000, and that there be no cooking on the site and that there be a maximum of eight seats and/or counter spaces for customers or clients. The Commission instructed the Director of Planning to prepare a letter to the applicant noting that the application has been approved accordingly. The following motion was made: That the Planning & Zoning Commission approve the project subject to the representations made by the applicant and the discussion of the Commission. The motion was made by Mr. DiDonna, seconded by Mr. Olvany and unanimously approved.

There being no further business the following motion was made: That the Planning & Zoning Commission adjourn the meeting. The motion was made by Mr. Voigt, seconded by Mr. Olvany and unanimously approved. The meeting was adjourned at 9:45 P.M.

Respectfully submitted,

David J. Keating
Assistant Planning & Zoning Director

11.12.2013.min